

COMMISSIONERS APPROVAL

GRANDSTAFF *Cg*

ROKOSCH

THOMPSON

CHILCOTT *gc*

DRISCOLL *KD*

PLETTENBERG (Clerk & Recorder)

Members Present..... Commissioner James Rokosch,
Commissioner Alan Thompson, Commissioner Greg Chilcott and Commissioner
Kathleen Driscoll

Date.....February 26, 2008

Minutes: Beth Perkins

► The Board met for a public meeting on a Request for Commission Action on
Remington Ridge Major Subdivision and one variance request. Present were Planner
Tristan Riddell and Consultant Gordon Sorenson.

Commissioner Rokosch called the meeting to order and requested any conflicts of
interest, hearing none. He then requested the Staff Report be read for the record.

Tristan presented the Staff Report as follows:

**REMINGTON RIDGE (BUTLER VIEW LLC)
TWENTY-LOT MAJOR SUBDIVISION AND VARIANCE REQUEST**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: Tristan Riddell

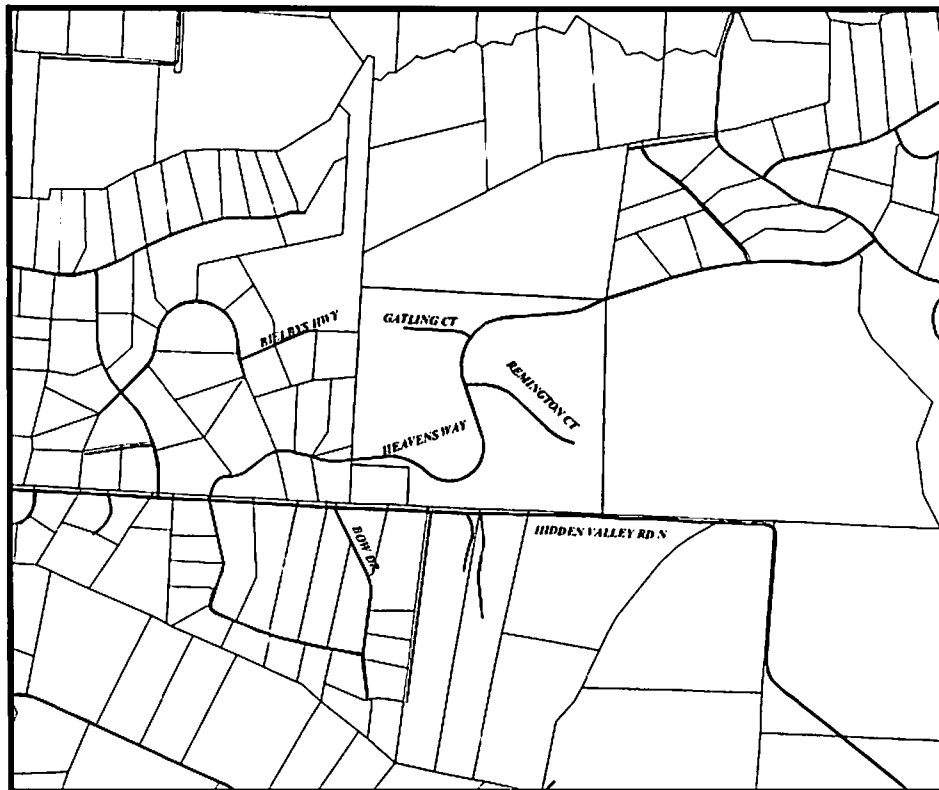
**REVIEWED/
APPROVED BY:** Renee Lemon

**PUBLIC HEARINGS/
MEETINGS:** Planning Board Public Meeting 3:00 p.m.
February 6, 2008
BCC Public Hearing: 9:00 a.m. February 26, 2008
Deadline for BCC action (60 working days): March 12, 2008

SUBDIVIDER: Butler View, LLC/Keith Krumbeck
PO Box 370
Florence, MT 59870

REPRESENTATIVE: Gordon Sorenson Engineering
2610 Gunsight Court
Missoula, MT 59808

LOCATION OF REQUEST: The property is located east of Florence off
Hidden Valley Road North. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

A parcel, located in the SW ¼ of Section 9, T10N,
R19W, P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was determined complete
on December 13, 2007. Agencies were notified of the
subdivision and comments received by the Planning
Department not included in the application packet are

Exhibits A-1 through A-10 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.**

LEGAL NOTIFICATION: A legal advertisement was published in the Ravalli Republic on Tuesday, January 29, 2008. Notice of the project was posted on the property and adjacent property owners were notified by regular mail postmarked December 18, 2007.

**DEVELOPMENT
PATTERN:**

Subject property	Vacant
North	Rural Residential
South	Rural Residential
East	Rural Residential
West	Rural Residential

INTRODUCTION

Remington Ridge is a twenty-lot major subdivision proposed on 46 acres. The proposal is for twenty (20) residential lots. Lots will be served by individual wells and septic systems.

Staff recommends conditional approval of the subdivision proposal.

**RAVALLI COUNTY BOARD OF COMMISSIONERS
FEBRUARY 26, 2008**

**REMINGTON RIDGE
TWENTY-LOT MAJOR SUBDIVISION AND VARIANCE REQUEST**

RECOMMENDED MOTIONS

1. That the variance request from Sections 5-4-5(a) and (e), and 5-4-4, Table B-1 (easement width) be **approved**, based on the findings of fact and conclusions of law in the staff report.
2. That the Remington Ridge Major Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v), RCSR, Impacts on Agriculture*)

Notification of Road Maintenance Agreement. Ravalli County, the State of Montana, or any other governmental entity does not maintain Hidden Valley Road North, Heaven's Way, or the internal subdivision roads and therefore does not assume any liability for improper maintenance or the lack thereof. A Road Maintenance Agreement(s) for these roads was filed with this subdivision and outlines what parties are responsible for maintenance and under what conditions. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health and Safety*)

Notification of "very limited" Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as very limited for roads and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the severe soils are included as exhibits to this document. (The subdivider shall include the exhibits as attachments) (*Section 3-2-8(b)(v), Effects on Public Health and Safety*)

Notification of No-Build/Alteration Zone. Within this subdivision there is a no-build/alteration, as shown on the plat, to restrict building in areas with steep slopes. No new structure, with the exception of fences, necessary weed control, development of native vegetation, and the installation or maintenance of irrigation infrastructure, may be constructed in this area. No new utilities, with the exception of wells, may be constructed in this area. No fill may be placed in this area and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through this area are not permitted. The no-build/alteration zone takes effect upon preliminary approval of the subdivision. (*Section 3-2-8(b)(v), Effects on Public Health & Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. (See Remington Ridge Subdivision Application for required provisions.) (*Section 3-2-8(b)(v), Effects on Agriculture and Wildlife & Wildlife Habitat*)

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. (*Section 3-2-8(b)(v), Effects on Natural Environment*)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. *(Section 3-2-8(b)(v), Effects on Public Health & Safety)*

Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. *(Section 3-2-8(b)(v), Effects on Agriculture and Natural Environment)*

Posting of County-Issued Addresses for Lots within this Subdivision. The Florence Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the accessway leading to each lot as soon as construction on the structure begins. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*

Access Requirements for Lots within this Subdivision. The Florence Rural Fire District has adopted the Fire Protection Standards. All accesses over 150' in length must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire District for further information. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*

Building Standards. The All Valley Fire Council recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. It is recommended that any commercial buildings be constructed to meet state building code requirements. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*

Wood Stoves. The County recommends that home owners install EPA-certified wood stoves to reduce air pollution. It is recommended that wood burning stoves not be used as the primary heat source. More information is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Credit for the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. *(Section 3-2-8(b)(v), Effects on Natural Environment)*

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included

as a condition of subdivision approval. *(Section 3-2-8(b)(v), Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v), Effects on Local Services)*
4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Florence Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Florence Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*
6. The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Florence Rural Fire Department, has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire Department for further information". *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*
7. Stop signs and road name signs shall be installed at the intersection of all internal roads prior to final plat approval. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health and Safety)*
8. The subdividers shall submit a letter or receipt from the Florence-Carlton School District stating that they have received an amount per lot (to be recommended by the Board of County Commissioners in consultation with the subdivider and the School District) prior to final plat approval. *(Section 3-2-8(b)(v), Effects on Local Services)*
9. The subdivider shall submit an amount per lot contribution (to be recommended by the Board of County Commissioners in consultation with the subdivider) to the Ravalli County Treasurer's Office to be deposited into an

account for Public Safety Services prior to final plat approval. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)

10. The following statement shall be shown on the face of the final plat: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (*Section 3-2-8(b)(v), Effects on the Natural Environment*)
11. The subdivider shall submit a letter from the Florence-Carlton School District indicating that they have reached an agreement with the developer on the appropriate location and design of a safe pick-up/drop-off zone. Any improvements shall be completed prior to final plat and any easements shall be shown on the final plat. (*Section 3-2-8(b)(v), Effects on Local Services*)
12. The applicant shall provide a road maintenance agreement for Hidden Valley Road North that meets the provisions in Section 3-1-5(a)(xxxviii) of the RCSR prior to final plat approval. (*Prerequisites to Approval and Section 3-2-8(b)(v), Effects on Local Services*)
13. The applicants shall provide evidence that plans for a Collection Box Unit (CBU), including location of the box and specifications, have been approved by the local post office prior to final plat approval. (*Effects on Local Services*)
14. A 10-foot wide trail easement shall be shown on the final plat along the south side of Heaven's Way along the entire stretch of the road within the subdivision. (*Effects on Public Health & Safety*)

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied.
2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. The features listed in RCSR Section 3-4-4(a)(ii) are required on the Final Plat. Following are specific features related to this subdivision:
 - a) Existing and proposed utility easements, as shown on the preliminary plat, shall be shown on the final plat. (*Prerequisite to Approval A*)

- b) The easements for the internal roads shall be labeled as 60-foot wide public road and utility easement on the final plat.
 - c) A 10-foot wide trail easement shall be shown on the final plat along the south side of Heaven's Way along the entire stretch of the road within the subdivision. *(Condition 14)*
 - d) The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Florence Rural Fire Department, has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire Department for further information". *(Condition 6)*
 - e) The following statement shall be shown on the face of the final plat: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". *(Condition 10)*
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
 4. Any variance decisions shall be submitted with the final plat submittal.
 5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
 6. The final plat review fee shall be submitted with the final plat submittal.
 7. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
 8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
 9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
 10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
 11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
 12. A Copy of the appraisal report, dated no less than six (6) months from the date of the final plat submittal, for calculating the cash-in-lieu or parkland dedication and a receipt from the County Treasurers Office for the payment of the cash-in-lieu dedication.
 13. Evidence of a Ravalli County-approved road name petition(s) for each new road.
 14. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal.

15. Utility availability certification(s) shall be submitted with the final plat submittal.
16. A road maintenance agreement, signed and notarized, shall be submitted with the final plat submittal.
17. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
18. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
19. A copy of the letter sent to the Florence-Carlton School District stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities shall be submitted with the final plat submittal.
20. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2). The following improvements are proposed with this proposal:
 - The applicant shall improve all internal roads to meet County standards (addressed above).
 - The applicant shall improve the portion of Heaven's Way from the existing cul-de-sac to the entrance for Remington Ridge prior to final plat approval.
 - Stop and road name signs shall be installed at the intersections of the internal roads.
21. The applicant shall provide evidence that the pro rata share of the cost to improve the portion of Hidden Valley Road leading to the subdivision has been paid prior to final plat approval. (Section 5-4-5(d), RCSR)

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing utilities are located within the easements for Hidden Valley Road North and Heaven's Way. (Remington Ridge Subdivision Application)

2. The internal road system will be located within a proposed 60-foot wide public road and utility easement. (Remington Ridge Subdivision Application)
3. *Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)*

Conclusion of Law

The proposed subdivision application provides for utility easements.

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.

Findings of Fact

1. The subject property is accessed by Eastside Highway, Hidden Valley Road, Hidden Valley Road North, Heaven's Way, and the proposed internal road system. (Remington Ridge Subdivision Application)
2. Eastside Highway is a State highway that provides legal and physical access.

Hidden Valley Road

3. Hidden Valley Road is a County-maintained road that provides legal and physical access. (Exhibit A, RCSR)
4. *The applicant is required to pay the pro rata share of the cost to improve Hidden Valley Road to meet County standards. (Requirement 21, Exhibit A-10)*

Hidden Valley Road North

5. Hidden Valley Road North is a privately-maintained County standard road. The applicant provided evidence that there is legal access. (Remington Ridge Subdivision Application)
6. The Ravalli County Attorney's Office (CAO) reviewed the evidence and determined that there is legal access via Hidden Valley Road North. (Exhibit A-1)
7. Because the road is not identified as a County-maintained road in Exhibit A of the RCSR, the applicant is required to provide evidence that Hidden Valley Road North currently meets County standards or actually improve the road to meet County standards prior to final plat approval. (Sections 5-4-5(a) and (e), RCSR)
8. The Road Department has determined that Hidden Valley Road North meets County standards for the existing traffic plus the proposed traffic from Remington Ridge, except for proof that it lies within a 60-foot public road easement. (Exhibit A-2)
9. The applicant is requesting a variance from providing evidence that there is a 60-foot wide public road easement for the entire portion of Hidden Valley Road North leading to the subdivision and staff is recommending approval. (See Variance Report)

10. An existing road maintenance agreement was filed for Hidden Valley Road North with the Paradise Acres Phase IV subdivision (Exhibit A-9). The lots within Remington Ridge will become party to this agreement and be responsible for helping in the maintenance of Hidden Valley Road North.
11. *To ensure physical access via Hidden Valley Road North, the applicant shall provide a road maintenance agreement for Hidden Valley Road North that meets the provisions in Section 3-1-5(a)(xxxviii) of the RCSR prior to final plat approval. A notification of that road maintenance agreement shall be included in the Notifications Document. (Condition 12)*

Heaven's Way

12. Heaven's Way is a privately-maintained road that was constructed for the Paradise Acres Phase IV Subdivision. (Remington Ridge Subdivision Application)
13. The Road Department has determined that the portion of Heaven's Way from Hidden Valley Road North to the existing cul-de-sac meets County standards for the existing traffic plus the proposed traffic for Remington Ridge. (Remington Ridge Subdivision Application)
14. The applicant has submitted preliminary road plans to improve the portion of Heaven's Way from the existing cul-de-sac to the entrance for Remington Ridge and has received preliminary approval from the Road Department. (Remington Ridge Subdivision Application)
15. The portion of Heaven's Way from Hidden Valley Road North to the current cul-de-sac has a dedicated 60-foot wide public access and utility easement. A 60-foot wide private road and utility easement has been filed for the portion of Heaven's Way from the cul-de-sac to the entrance of Remington Ridge. (Application and Document # 593883)
16. The applicant has submitted a preliminary RMA for Heaven's Way (Remington Ridge Subdivision Application)
17. *The applicant is required to proceed through the Road Department review process and complete the proposed improvements to Heaven's Way prior to final plat approval. (Requirements 14 and 20)*
18. *The applicant is required to submit a final road maintenance agreement for Heaven's Way prior to final plat approval. (Requirement 16)*

Internal Subdivision Roads

19. The applicant is proposing to construct the internal road system to meet County standards. The Ravalli County Road and Bridge Department has issued preliminary approval of the road plans. (Application)
20. The applicants have submitted a preliminary Road Maintenance Agreement for the internal road network. (Remington Ridge Subdivision Application)
21. *To ensure physical access on the internal subdivision roads, final approval from the Ravalli County Road and Bridge Department that the internal road network was constructed to meet County standards shall be submitted with the final plat. This packet shall include final road plans and*

- grading and storm water drainage plans, and a final letter of approval from the Ravalli County Road and Bridge Department. (Requirement 14)*
22. *To further ensure physical access, the applicant shall submit a road maintenance agreement for the internal subdivision roads. (Requirement 16)*

Conclusion of Law

With the conditions and requirements of final plat approval, legal and physical access will be provided on Eastside Highway, Hidden Valley Road, Hidden Valley Road North, Heaven's Way, and the internal road network.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Findings of Fact

1. To mitigate impacts on public health and safety, the applicant is required to install stop signs and road name signs at the intersections of the internal road network prior to final plat approval. (Condition 7)
2. The applicant is proposing to construct the internal road system as proposed in the road plans that have received preliminary approval from the Ravalli County Road and Bridge Department. (Remington Ridge Subdivision Application)
3. *The applicant is required to submit evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval. (Requirement 20)*

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

There are no water rights associated with the subject property.
(Remington Ridge Subdivision Application)

Conclusion of Law

This requirement does not apply to the Remington Ridge proposal.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

There are no irrigation ditches on or within 300 feet of the subject property. (Remington Ridge Subdivision Application)

Conclusion of Law

This requirement does not apply to the Remington Ridge proposal.

- F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

Findings of Fact

1. All lots within the subdivision are proposed for residential use. (Remington Ridge Subdivision Application)
2. The subdivider has proposed cash-in-lieu of parkland dedication. (Remington Ridge Subdivision Application)
3. During a phone conversation on January 17, 2008, Bob Cron of the Ravalli County Park Board indicated that the Park Board concurs with the subdivider's proposal to provide cash-in-lieu for parkland dedication. This was again reflected as the preferred method for the parkland requirement during the February 6, 2008 Planning Board Public Meeting.

Conclusion of Law

With the acceptance of a cash-in-lieu payment, the parkland requirement will be met.

- G. Overall Conclusion on Prerequisite Requirements**

With the conditions and requirements of final plat approval, there is credible evidence that the subdivision application meets the prerequisite requirements.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

- A. These regulations, including, but not limited to, the standards set forth in Chapter 5.**

Findings of Fact

1. The subdivision proposal meets the design standards in Chapter 5 of the RCSR, except for the easement width of Hidden Valley Road North. The applicants have requested a variance from providing evidence that there is

- a 60-foot wide public road easement for Hidden Valley Road North and staff is recommending approval. (Remington Ridge Subdivision File)
2. This development proposal has followed the necessary application procedures and has been reviewed in compliance with Chapter 3 of the RCSR. (Remington Ridge Subdivision File)

Conclusions of Law

1. With approval of the variance, the preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The requirements for the application and review of this proposed subdivision have been met.

B. Applicable zoning regulations.

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038). The application complies with Resolution 2038.
2. The property is not within one of the voluntary zoning districts in Ravalli County. (Remington Ridge Subdivision Application)

Conclusion of Law

This proposal complies with existing zoning regulations.

C. Existing covenants and/or deed restrictions.

Findings of Fact

There are no existing covenants on the property. (Remington Ridge Subdivision Application)

Conclusion of Law

Compliance with covenants is not applicable.

D. Other applicable regulations.

Findings of Fact

1. Following are applicable regulations:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)

2. *Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)*

Conclusion of Law

With the requirements of final plat approval, the application will meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed major subdivision on 46 acres will result in twenty lots that range in size from 2.02 acres to 3.49 acres. The property is located approximately 3 miles east of the community of Florence off Hidden Valley Road North and Heaven's Way. (Remington Ridge Subdivision Application)
2. The subject property is located in an area with a mix of residential and agricultural uses. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services and 2005 Aerial Photography created by the National Agricultural Imagery Program, Remington Ridge Subdivision Application)
3. There is no prime farmland or farmland of statewide importance on the property. (Remington Ridge Subdivision Application and Web Soil Survey, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS))
4. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Common Tansy and Canadian Thistle were present on the property. The subdivider has proposed a provision in the covenants that the owners of each lot control noxious weeds. (Remington Ridge Subdivision Application)
5. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
6. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*

- *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
- *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on agriculture.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. The application states that there are no water rights associated with the property. (Remington Ridge Subdivision Application)
2. There are no irrigation ditches/facilities within 300 feet of the proposal. (Remington Ridge Subdivision Application)

Conclusion of Law

There will be minimal, if any, impacts on agricultural water user facilities.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire District

1. The subdivision is located within the jurisdiction of the Florence Rural Fire Department. (Remington Ridge Subdivision Application)
2. The All Valley Fire Council, which includes the Florence Rural Fire Department, has adopted Fire Protection Standards (outlined in document from the Hamilton Rural Fire Department) that address access, posting of addresses, and water supply requirements. The Fire Council also recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. (Exhibit A-3)
3. *The following conditions will mitigate impacts of the subdivision on the Florence Rural Fire Department:*
 - *Provisions shall be included in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
 - *The covenants shall include a recommendation that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. (Condition 2)*
 - *Prior to final plat approval, the subdividers shall provide a letter from the Florence Rural Fire Department stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for the additional lot. Alternatively, the subdividers may provide evidence that \$500 has been contributed to the Florence Rural Fire Department with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*

- *The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Florence Rural Fire Department, has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire Department for further information". (Condition 6)*

School District

4. The proposed subdivision is located within the Florence-Carlton School District. (Remington Ridge Subdivision Application)
5. It is estimated that 10 school-aged child will be added to the Florence School District, assuming an average of 0.5 children per household. (Census 2000)
6. In a letter dated January 16, 2008, John McGee, Superintendent of the Florence-Carlton School District, stated that the School District is requesting a fee of \$10,418 per lot. This fee is based on an impact fee study. The County has yet to adopt impact fees. (Exhibit A-4)
7. The cost per pupil for one year in the Florence-Carlton School District, excluding capital costs, is \$6,686. Taxes from new residents are not immediately available to the school districts. (Exhibit A-5)
8. During the February 6, 2008 Planning Board Public Meeting the subdivider stated that they would be willing to contribute \$250 per lot to the school district. (Planning Board Minutes)
9. *Staff recommends that the applicant negotiate a contribution with the BCC, in consultation with the Florence-Carlton School District, if possible, to mitigate potential impacts of additional students on the School District. (Condition 8 and Final Plat Requirement 19)*

Water and Wastewater Districts

10. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Remington Ridge Subdivision Application)

Law Enforcement and County Emergency Services (Sheriff, E-911, DES)

11. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Remington Ridge Subdivision Application)
12. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on January 14, 2008, but no comments have been received from the Sheriff's Office. (Remington Ridge Subdivision File)
13. The average number of people per household in Ravalli County is 2.5. (Census 2000)
14. The applicant has yet to propose a contribution to mitigate the impacts of the estimated addition of 32.5 people on Public Safety Services. (Remington Ridge Subdivision Application)
15. *To mitigate impacts on Ravalli County Public Safety Services, Staff recommends the applicant negotiate a contribution with the BCC, to be*

deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. (Condition 9)

Ambulance Services

16. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department and/or Missoula Emergency Services. Marcus Daly and Missoula Emergency Services were contacted on January 14, 2008, but no comments have been received to date. (Remington Ridge Subdivision File)
17. *To mitigate impacts on emergency services, the subdivider shall provide evidence with the final plat submittal that they have applied for a County-issued address for each lot within the subdivision. (Condition 4)*

Solid Waste Services

18. Bitterroot Disposal provides solid waste service to this site. (Remington Ridge Subdivision Application)
19. Notification letters were sent to Bitterroot Disposal requesting comments on January 14, 2008, but no comments have been received. (Remington Ridge Subdivision File)

Utilities

20. The proposed subdivision will be served by Ravalli Electric Coop and Qwest Communications. (Remington Ridge Subdivision Application)
21. Notification letters were sent to both utility companies requesting comments on January 14, 2008. No comments were received by Ravalli Electric Coop. (Remington Ridge Subdivision File)
22. Qwest submitted comment on May 9, 2005, stating that they could provide service. (Remington Ridge Subdivision Application)
23. *The following requirements will mitigate impacts of the subdivision on local utilities:*
 - *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
 - *The applicant shall submit utility availability certifications from Ravalli Electric Coop and Qwest Communications prior to final plat approval. (Final Plat Requirement 15)*

Roads

24. It is estimated that this subdivision will generate an additional 152 trips per day. (Remington Ridge Subdivision Application)
25. The subject property is accessed by Eastside Highway, Hidden Valley Road, Hidden Valley Road North, Heaven's Way, and the proposed internal road system. (Remington Ridge Subdivision Application)
26. Eastside Highway is a State-maintained highway.

Roads – Hidden Valley Road

27. Hidden Valley Road is a County-maintained road that provides legal and physical access. (Exhibit A, RCSR)
28. *The applicant is required to pay the pro rata share of the cost to improve Hidden Valley Road to meet County standards. (Requirement 21, Exhibit A-10)*

Roads – Hidden Valley Road North

29. Hidden Valley Road North is a privately-maintained road. (Remington Ridge Subdivision Application)

30. The Ravalli County Attorney's Office (CAO) reviewed the evidence and determined that there is legal access via Hidden Valley Road North. (Exhibit A-1)
31. Because the road is not identified as a County-maintained road in Exhibit A of the RCSR, the applicant is required to provide evidence that Hidden Valley Road North currently meets County standards or actually improve the road to meet County standards prior to final plat approval. (Sections 5-4-5(a) and (e), RCSR)
32. The Road Department has determined that Hidden Valley Road North meets County standards for the existing traffic plus the proposed traffic from Remington Ridge, except for proof that it lies within a 60-foot public road easement. (Exhibit A-2)
33. The applicant is requesting a variance from providing evidence that there is a 60-foot wide public road easement for the entire portion of Hidden Valley Road North leading to the subdivision and staff is recommending approval. (See Variance Report)
34. An existing road maintenance agreement was filed for Hidden Valley Road North with the Paradise Acres Phase IV subdivision (Exhibit A-9). During the February 6, 2008 Planning Board public meeting, the subdivider stated that lots within Remington Ridge will become party to the existing agreement and be responsible for helping in the maintenance of Hidden Valley Road North. (Planning Board Minutes)
35. *To mitigate impacts on local services, the applicant shall provide a road maintenance agreement for Hidden Valley Road North that meets the provisions in Section 3-1-5(a)(xxxviii) of the RCSR and include a notification of the road maintenance agreement in the Notifications Document prior to final plat approval. (Conditions 1 and 12)*

Roads – Heaven's Way

36. Heaven's Way is a privately-maintained road that was constructed for the Paradise Acres Subdivision. (Remington Ridge Subdivision Application)
37. The Road Department has determined that the portion of Heaven's Way from Hidden Valley Road North to the existing cul-de-sac meets County standards for the existing traffic plus the proposed traffic for Remington Ridge. (Remington Ridge Subdivision Application)
38. The applicant has submitted preliminary road plans to improve the portion of Heaven's Way from the existing cul-de-sac to the entrance for Remington Ridge and has received preliminary approval from the Road Department. (Remington Ridge Subdivision Application)
39. The portion of Heaven's Way from Hidden Valley Road North to the current cul-de-sac has a dedicated 60-foot wide public access and utility easement. A 60-foot wide private road and utility easement has been filed for this portion of Heaven's Way. (Application and Document # 593883)
40. The applicant has submitted a preliminary RMA for Heaven's Way. (Remington Ridge Subdivision Application)
41. *The applicant is required to proceed through the Road Department review process and complete the improvements to Heaven's Way prior to final plat approval. (Requirements 14 and 20)*
42. *The applicant is required to submit a final road maintenance agreement for Heaven's Way prior to final plat approval and include a notification of the road maintenance agreement in the Notifications Document. (Condition 1 and Requirement 16)*

Roads – Internal Roads

43. The applicant is proposing to improve the internal roads to meet County standards. The Road Department has granted preliminary approval of the road plans. (Remington Ridge Subdivision Application)
44. *Prior to final plat approval, the applicant shall provide evidence from the Road and Bridge Department that the internal roads have been built to required specifications, as preliminarily approved. (Final Plat Requirement 20)*
45. *The applicant shall provide a final road maintenance requirement for the internal subdivision roads and a notification of that road maintenance agreement prior to final plat approval. (Condition 1 and Final Plat Requirement 16)*
46. *Stop signs and road name signs shall be installed at the intersection of all internal roads prior to final plat approval. (Condition 7)*

Miscellaneous

47. *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Condition 3)*

Postal Service

48. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU) and that the locations of the boxes be approved by the USPS (Exhibit A-6).
49. *To mitigate impacts on local services, the subdivider shall provide evidence that plans for a Collection Box Unit (CBU), including location of the box and specifications have been approved by the local post office prior to final plat approval. (Condition 13)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on local services.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Air Quality

1. In an email dated December 31, 2007, the Montana Department of Environmental Quality (DEQ) identified the Hamilton and Missoula areas as communities with a high probability of failing to meet the recently revised National Ambient Air Quality Standards for particulate matter. Sources of particulate from this subdivision could be vehicles, and/or wood-burning stoves. There are no gravel roads accessing the subdivision. (Exhibit A-7)
2. *To mitigate impacts on air quality, a recommendation for EPA-certified wood stoves shall be included in the covenants. (Condition 2)*

Ground Water Quality

3. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Remington Ridge Subdivision Application)
4. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Surface Water Features

5. There are no streams, riparian areas or wetlands on the property. Eight Mile Creek is located approximately 1300 feet north of the subject property. A floodplain analysis was not required for this proposal. (Application, Site Visit, GIS data)

Light Pollution

6. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association, www.darksky.org)
7. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

Vegetation

8. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Common Tansy and Canadian Thistle were present on the property. The subdivider has proposed a provision in the covenants that the owners of each lot control noxious weeds. (Remington Ridge Subdivision Application)
9. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
10. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (Remington Ridge Subdivision Application).
11. *To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Archaeological Resources

12. There are no known sites of historical significance on the property. (Remington Ridge Subdivision Application)
13. *To mitigate possible impacts on any potential sensitive historical, cultural, archaeological, paleontological, and/or scenic sites, the following statement shall be on the final plat: "If any archaeological, historic, or paleontological*

sites are discovered during road, utility, or building construction, all work will cease and the developer will contact the State Historic Preservation Office to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 10)

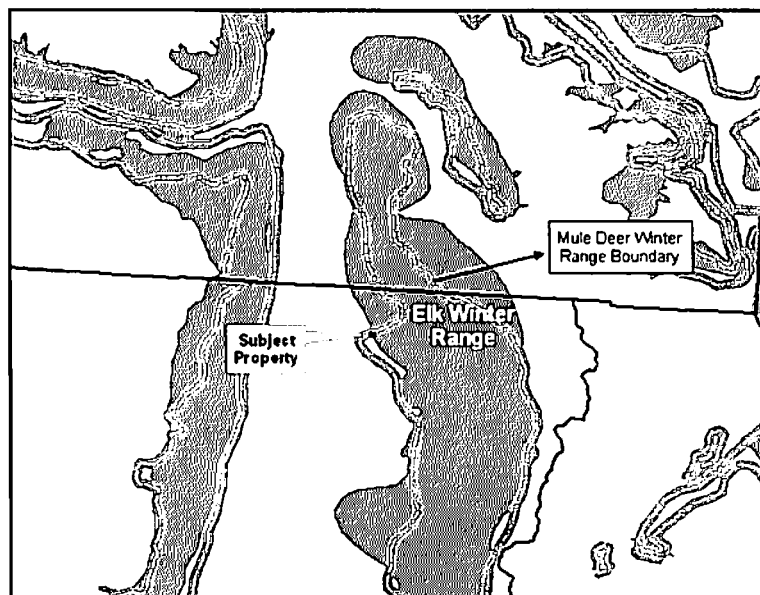
Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

Map 2 shows elk and mule deer winter range boundaries in relation to Remington Ridge at a scale of 1:250,000. The data was created by FWP and the Rocky Mountain Elk Foundation at a scale of 1:250,000 and should not be used at a larger scale (zoomed in closer to Remington Ridge). At this scale, the entire property is located within mule deer winter range and about half of the property is within elk winter range.



Map 2: Elk and Mule Deer Winter Range
(Source Data: FWP)

Although the property is located within big-game winter range, FWP stated that it is located approximately 3 miles west of the forested foothills and is not heavily used by wintering elk. (Remington Ridge Subdivision Application)

FWP recommended living with wildlife covenants for the property. (Remington Ridge Subdivision Application)

According to the Montana Natural Heritage Program (MNHP) in May of 2007, the Westslope Cutthroat Trout and the Lewis's Woodpecker were identified as species of concern as they have been known to exist in the same section as the proposed subdivision. (Remington Ridge Subdivision Application)

The subdivider submitted and was granted a waiver from completing a sensitive species

report because the subdivider provided evidence that the subject property does not have habitat that would support the species in question. (Exhibit A-8)
To mitigate impacts on wildlife, the covenants shall include a living with wildlife section. (Condition 2)

Conclusion of Law:

With the mitigating condition of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. The subject property is accessed by Eastside Highway, Hidden Valley Road, Hidden Valley Road North, Heaven's Way, and the proposed internal road system. (Remington Ridge Subdivision Application)
2. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*

Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Florence Rural Fire Department, the Ravalli County Sheriff's Office, Ravalli County E-911, the Ravalli County Department of Emergency Services, Marcus Daly Memorial Hospital EMS Department, and Missoula Emergency Services. (Remington Ridge Subdivision Application)
4. This proposal will add approximately 50 people to Ravalli County. (Census 2000)
5. *The requirements and conditions listed under Fire District, Law Enforcement and County Emergency Services, Ambulance Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

6. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Remington Ridge Subdivision Application)
7. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Requirement 9)*

Natural and Man-Made Hazards

8. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
9. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
10. *To mitigate impacts on public health & safety, the covenants shall include a statement regarding radon exposure. (Condition 2)*

11. The preliminary plat and soils map indicate that the subdivision may have soils rated as "Very Limited" for road and building construction. (Remington Ridge Subdivision Application)
12. To educate property owners and to mitigate potential impacts of this subdivision on Public Health & Safety, a notification of the potential for Very Limited soils shall be included in the notifications document filed with the final plat. A reduced plat showing the approximate locations of soils rated as Very Limited for roads and building construction and descriptions of the soils in question shall be attached to the notifications document as an exhibit.
(Condition 1)
13. The preliminary plat shows that all lots have steep slopes (greater than 25%), which are required to be identified as a no build/alteration zone on the final plat. In order to mitigate impacts on Public Health & Safety, notification of the no-build/alteration zone shall be included in the notifications document and the no-build/alteration zone shown on the final plat. (Condition 1)

Other

14. To mitigate impacts on public health and safety, a 10-foot wide trail easement shall be shown on the final plat along the south side of Heaven's Way along the entire stretch of the road within the subdivision. (Condition 14)

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

VARIANCE REQUEST

The subdivider is requesting a variance from Sections 5-4-5(a) and (e), and Section 5-4-4, Table B-1 of the RCSR, to provide the applicant relief from proving there is currently a 60-foot wide easement or obtaining a 60-foot wide easement for the portion of Hidden Valley Road North leading to the subdivision. The Ravalli County Road and Bridge Department has determined that the road meets County standards, except for the 60-foot wide easement.

Variance Analysis

Section 7-3-5(a), RCSR, outlines two sets of criteria to be used in analyzing a variance request.

Prerequisite Variance Criteria

In order for a variance to be considered for approval, the BCC must first determine that the variance request meets these stipulations:

1. Strict compliance with these regulations will result in undue hardship.
2. Compliance is not essential to the public welfare.

Variance Review Criteria

If and only if a positive determination is made on both of the prerequisite criteria, the BCC may then consider the variance for approval, based on the five variance review criteria:

- A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.
- B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.
- C. Physical conditions, such as topography or parcel shape, prevent the subdivider from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).
- D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.
- E. The variance will not cause a substantial increase in public costs.

Both sets of criteria were reviewed simultaneously. Findings for Prerequisite Criterion #1 are based on an analysis of Variance Review Criteria B and C. Findings for Prerequisite Criterion #2 are based on an analysis of Variance Review Criteria A, D, and E.

Five Variance Review Criteria

- A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.**

Findings of Fact:

- 1. Hidden Valley Road North is a privately-maintained, paved road providing access to the subdivision. (Remington Ridge Subdivision Application)
- 2. The applicant is required to prove that the road currently meets County standards or improve the road to meet County standards prior to final plat approval. The County standards include a requirement for a 60-foot wide public road easement. (Section 5-4-5(a) and (e), and 5-4-4, Table B-1, RCSR)
- 3. In 2007, the developer of the Paradise Acres IV Major Subdivision submitted evidence that Hidden Valley Road North met the County road standards in place at that time from the intersection with Hidden Valley Road to the intersection with Heaven's Way. Based on that evidence, the Ravalli County Road and Bridge Department Supervisor has deemed that the road meets County standards for the proposed Remington Ridge Subdivision, except for the 60-foot wide public road easement. (Exhibit A-2)

Conclusions of Law:

1. The granting of the variance will not be substantially detrimental to public health and safety, general welfare, and adjoining properties because Hidden Valley Road North meets the County standards for the current amount of traffic plus the proposed traffic from Remington Ridge, except for the 60-foot wide public road easement.
2. The existing easement is adequate because the developers are not required to make any improvements to Hidden Valley Road North that would require a full 60-foot wide easement.

B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.

Findings of Fact:

1. Currently, Hidden Valley Road North is not on the list of County-maintained roads. (Exhibit A, RCSR)
2. Legal counsel for the applicant and the County have determined that Hidden Valley Road North is most likely a public road, but they have been challenged in finding the supporting records. (Remington Ridge Subdivision Application)
3. If Hidden Valley Road North is a public road, then it should be on the list of County-maintained roads, which would relieve the applicant from providing evidence or obtaining a 60-foot wide easement. (Exhibit A, RCSR)

Conclusion of Law:

The difficulty in determining the legal status of Hidden Valley Road North is a unique condition to the property.

C. Physical conditions, such as topography or parcel shape, prevents the subdivider from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).

Findings of Fact:

1. Because North Hidden Valley Road is not listed as a County-maintained road, the applicants are required to provide evidence that the road meets County standards or improve the road to meet County standards. (RCSR)
2. North Hidden Valley Road meets County standards for Remington Ridge, except for providing a public easement. (Exhibit A-2)
3. Legal counsel for the applicant and the County have determined that Hidden Valley Road North is most likely a public road, but they have been challenged in finding the supporting records. (Remington Ridge Subdivision Application)
4. If Hidden Valley Road North is a public road, then it should be on the list of County-maintained roads, which would relieve the applicant from providing evidence or obtaining a 60-foot wide easement. (Exhibit A, RCSR)

Conclusion of Law:

The confusion over the legal status is not a physical condition.

D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.

Findings of Fact:

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038). The application complies with Resolution 2038.
2. Relevant countywide provisions in the Ravalli County Growth Policy are outlined in italics below. Provisions of the Ravalli County Growth Policy are followed by an analysis (bulleted points) of the variance request against these provisions.

Countywide Goal 4: Provide necessary infrastructure and public services to accommodate population growth and new development without undue impacts on the quality, quantity and cost of service to existing residents.

Countywide Policy 4.4: Improve and maintain existing infrastructure and public services.

- Hidden Valley Road North has been deemed to meet County standards for the current traffic plus the proposed traffic for Remington Ridge, with the exception of easement width. Existing utilities are already located along the length of roadway providing access to the proposed subdivision. (Remington Ridge Subdivision Application)

Conclusions of Law:

1. The subdivision proposal complies with applicable zoning regulation.
2. The variance will not vary from the provisions in the Growth Policy.

E. The variance will not cause a substantial increase in public costs.

Findings of Fact:

The roadway meets current County standards with the exception the easement width. (Attach approval from David)

Conclusion of Law:

The granting of the variance will not cause a substantial increase in public costs.

Prerequisite Variance Criteria

A. Strict compliance with these regulations will result in undue hardship.

Findings of Fact:

1. The conclusion for Criterion B is that the difficulty in determining the legal status of Hidden Valley Road North is a unique condition to the property.
2. The conclusion for Criterion C is that the confusion over legal status is not a physical condition.

Conclusion of Law:

Strict compliance with these regulations will result in undue hardship.

B. Compliance is not essential to the public welfare.

Findings of Fact:

1. The conclusion for Criterion A is that granting the variance will not be substantially detrimental to public health and safety, general welfare, and adjoining properties because Hidden Valley Road North meets the County standards for the current amount of traffic plus the proposed traffic from Remington Ridge, except for easement width.
2. The conclusions for Criterion D are that the variance request complies with applicable zoning regulations and does not vary from the provisions in the Growth Policy.
3. The conclusion for Criterion E is that the granting of the variance will not cause a substantial increase in public costs.

Conclusion of Law:

Compliance is not essential to the public welfare.

C. Overall Conclusion on Hardship and Public Welfare

The variance application provides evidence that there is an undue hardship and that compliance with the RCSR is not essential to the public welfare.

Commissioner Rokosch opened public comment.

Gordon Sorenson stated this subdivision will have a satellite fire station that will be placed into a two acre parcel located near the southwest corner of the proposal. There will be a road connection from Jenny Lane to the Eight Mile area. This planning and process started eight years ago for this subdivision. He believes it has been carefully designed.

Ron Altdorf asked if the subdivision is going to adversely impact the road system to the southeast of the proposal. Gordon replied no, the road will tie into Eight Mile Road. Ron asked about the timeframe for the activation of the Fire Station. Gordon replied he does not have a schedule at this time. Ron asked if the southeast corner of the subdivision is going to be developed. Gordon replied no. Ron stated the connection being made to Eight Mile Creek Road is a 'positive' for the area.

Commissioner Rokosch asked for any further public comment. Hearing none, he then closed public comment.

Commissioner Thompson stated he would like to reply to the question of the county taking over maintenance of Granite Creek Road. State law states once you start to maintain a road, you have to continue to maintain it. He explained the road was unsafe so the county had plans to improve the road for safety reasons. The citizens in the Granite

Creek area protested the county's involvement in the improvements of the roadway. He stated Granite Creek is still a treacherous road. There have been various lawsuits in the past. Gordon stated the 'sage brush people' did provide easements to continue a road.

Commissioner Thompson stated the contribution normally recommended for the Fire District wasn't offered due to the satellite Fire Station but the station is not actually in the subdivision. He does not believe it should be bypassed. Gordon replied Commissioner Thompson is correct and that it was just a request. Gordon stated the developer would make the \$500 contribution.

In regard to road width, Commissioner Chilcott stated 60 feet is a number, but through numerous discussions with the Road Department, most infrastructures can be built within an easement of less width. Civil Counsel Alex Beal stated he does not know if they actually need the variance. Hidden Valley Road first appears in a deed in the 1970's. The easement is not clear if it is a dedicated public road. It looks like it was intended that way. He stated he does not think it matters in this case as long as it is a county standard road. He is 99% sure there is a full 60 foot easement existing. Commissioner Rokosch stated his concern is over the comments from both the Road Supervisor and Civil Counsel to approve the variance. He stated if the Board approves this variance; it would lead to future subdivisions down the line. Tristan replied that the comments received from David Ohnstad are specific to the proposal at hand and that any future subdivision would still have to prove the road meets county standards.

Alex Beal and Commissioner Driscoll had discussion regarding how pro-rata is assessed and why the county doesn't consider undeveloped and recently approved lots that were created through subdivision as part of the road counts.

Commissioner Rokosch stated that he will hold off on any further conversation regarding the road until the Public Health and Safety criteria is discussed.

Commissioner Chilcott made a motion that the variance request from Sections 5-4-5(a) and (c) and 5-4-4, Table B-1 for easement width be approved based on the findings of fact and conclusions of law in the Staff Report. Commissioner Thompson seconded the motion. Discussion of the motion then took place. Commissioner Rokosch stated there is some indication of the perimeter fences on Hidden Valley Road North that there is a 60-foot prescriptive easement. Alex replied he is almost certain that Hidden Valley Road is a full blown public road within a 60-foot easement. Gordon stated he completed the survey and all of the fences are set back a full 60 foot width. Alex stated that the argument made regarding the road isn't whether there is the easement width, but whether the roadway had been dedicated to the public. Commissioner Driscoll asked about additional subdivisions in the area and if they can be considered when reviewing the subdivision proposal. **All voted 'aye'.**

Commissioner Rokosch opened Board discussion to review the six criteria.

1. Effects on Agriculture:

Commissioner Rokosch stated the Staff Reports indicates there is no farm land of local importance. Tristan stated they are not investigating local importance just prime farmland and farmland of statewide importance. Commissioner Rokosch requested Tristan to include local importance in the future. Alex stated as an individual Commissioner, Commissioner Rokosch cannot request this information unless he has the consensus of the Board. Commissioner Rokosch requested consensus of the Board. Commissioner Chilcott stated he is not an expert and would rather leave that issue up to the experts at the State to make the determination of farm land importance. Commissioner Thompson stated he has looked at the land and agrees with Commissioner Chilcott. It does not look like it has ever been used for farm land and history reflects that. Commissioner Rokosch stated he disagrees. Commissioner Chilcott asked Commissioner Rokosch if he is looking for mitigation for the removal of agricultural land. Commissioner Rokosch replied yes. Board discussion followed. Commissioner Driscoll requested they move forward discontinuing with this discussion. Commissioner Chilcott stated he does not want to move forward with the other criteria, just to have to come back to this issue and end up in a continuance. He stated he would rather not waste everyone's time.

Alex stated in the Ravalli County Subdivision Regulations it 'states prime farm land' and 'farm land of statewide importance'. This would be the time to address the issue by utilizing the regulations. Commissioner Rokosch stated he disagrees. He stated that the language in the regulations does not limit the Board to review only prime farmlands and farmlands of statewide importance. He stated the Board has the responsibility to fully investigate this 'farmland'. Board discussion followed regarding Commissioner Rokosch's request of local farm land importance with Civil Counsel.

Commissioner Chilcott made a motion to accept the findings on fact and conclusions of law of the Staff Report for criteria one. Commissioner Thompson seconded the motion.

Discussion of the motion took place. Commissioner Rokosch stated there still needs to be a plan for noxious weeds. Tristan stated the regulations only require the applicant to submit evidence that a weed evaluation form has been submitted to the Weed Board. Now Present was Planning Director Karen Hughes who stated to require the applicant to have a finalized plan, the regulations would need to be changed. The Weed Board specifically requested the current language within the regulations. **Commissioner Chilcott, Commissioner Thompson and Commissioner Driscoll voted 'aye'. Commissioner Rokosch voted 'nay'.**

2. Effects on Agricultural water user facilities: The Board agreed with the findings of fact.

3. Effects on Local Services:

Commissioner Rokosch stated he believes there should be a contribution to the fire district for the impacts created by the proposal.

Commissioner Driscoll asked about Heavens Way and what is being planned on the road. Gordon replied it has two built ends. He pointed out on the map where it would connect. Commissioner Driscoll asked if the children have a way to get down to the bus stop. Gordon replied there is an estimated 10 students for the subdivision. Commissioner Driscoll stated her concern is with the safety of students going down to the road. Gordon replied it is not a narrow road but it is not super wide either. One of the conditions is to allow another 10 feet of easement for a walk trail. The speed limit is 35 but that does not mean people actually drive 35 mph. Commissioner Driscoll stated she is trying to protect the safety of people walking on the road.

Commissioner Rokosch stated the Board has to consider pedestrian safety. There is liability and responsibility. He stated it is a huge consideration and it is also a duty of the Board. He requested a school bus turn out. Gordon pointed out the school bus turn out at the end of Heavens Way. Commissioner Rokosch stated he would feel better having a pathway for the children. Commissioner Driscoll agreed with Commissioner Rokosch.

Kirby Christians stated the Planning Board discussed the additional 10 foot easement for the county in the future for a trail. The thought was that people would drive their kids down to the bus stop. Commissioner Rokosch stated having the easement and an actual pathway are two different things. Children are going to walk in the road which is in harms way. Commissioner Rokosch asked if there is any consideration to building the pathway. Commissioner Driscoll stated she would also like to see it. Kirby stated Keith would consider a 4-foot wide gravel trail. Tristan stated he will incorporate this into Condition 14.

Commissioner Rokosch stated there is a letter submitted by John McGee, Superintendent of the Florence-Carlton School District requesting fees. He explained how the Board configures the appropriate contribution request. It is estimated at \$1,119 per lot. Commissioner Rokosch requested this amount be considered for the contribution. Kirby requested clarification. Commissioner Rokosch stated this is an annual cost that is not collected at first in order to mitigate the impacts to the schools, particularly for new students. He stated in other subdivisions the developer was given the option of paying upon final plat or paying half upon final plat and the other half at first conveyance with consumer price index increase. Gordon asked if they give any consideration to the fact that some of these homes will not have any children. Commissioner Rokosch replied yes that is the .5 figure based on census data. Alex added he has spoken to the Department of Revenue and they tax twice a year, but there is a one year lag time from the time of construction to when the house is taxed. Kirby replied they offer of \$550 per lot for school contributions. Commissioner Rokosch stated from his perspective that is not enough mitigation.

Commissioner Rokosch asked if there was any further comment on the school contribution, hearing none.

Steven Rollins stated he lives one mile south and east from the proposal. He thanked the developer for the fence he installed at the southeast corner of the proposal. He would like to address the water issue. He is fine with this subdivision because they are working within the regulations. He is not sure the aquifer can handle the amount of wells since the existing landowners have experienced a lower water supply than when the original wells were drilled. Commissioner Rokosch requested this information be presented with the data to DNRC for their determination of the water supply. Steven replied he is not an expert, but he wants the Board to consider this issue in other subdivisions within the same area also. Commissioner Driscoll stated when she was in Missoula at a DEQ meeting; she did not know her input would be taken into consideration of subdivisions.

Commissioner Rokosch stated there is a letter from Sheriff Hoffman regarding this subdivision. He read the letter to the Board. He requested the minutes reflect the distance from the Sheriff's Office to the subdivision as roughly 30 miles. Commissioner Rokosch stated they have suggested a contribution of \$500 per lot to mitigate the impacts on Public Safety Services. Kirby agreed to \$500 per lot for Public Safety Services.

Commissioner Rokosch discussed the impacts on County Services. He stated the breakdown is approximately \$212 per new home. Kirby stated they would consider it. Kirby stated his offer is \$1,500, which breaks down to \$75 per lot.

4. Effects on Natural Environment:

Commissioner Driscoll asked about woodstoves and the heating systems. Tristan replied a condition would be to allow woodstoves as a secondary heating source.

Commissioner Rokosch stated in regard to the different soils and the absence of a review letter from DNRC, he is requesting a DNRC recommendation, particularly in regard to the size of this subdivision. Commissioner Rokosch suggested having shared wells.

5. Effects on Wildlife and Wildlife Habitat:

Commissioner Rokosch reviewed the winter range for elk and mule deer within the boundaries. He asked the developer if there was consideration for any mitigation. Gordon replied no due to the covenants including a living with wildlife section.

6. Effects on Public Health and Safety:

Commissioner Rokosch stated Commissioner Driscoll had concerns with Public Safety. He stated the concern is with the additional traffic on the road and the pedestrians. It is the Board's responsibility to ensure Public Safety. They are looking at average daily trips and those do not take into account the future subdivisions. Commissioner Driscoll stated she understands the future subdivisions are not part of the regulations, but she asked if the

subdivisions not yet developed have been looked at for traffic increases. Alex replied if they include those potential lots, they would have to increase the denominator and then the impacts would not be specific to the subdivision, and the county would be receiving a lower pro-rata payment from developers. Commissioner Driscoll asked if a road study would capture those un-built lots for traffic increases. Karen replied the way to obtain this is through the adoption of impact fees.

Commissioner Rokosch asked about the cost of infrastructure and the responsibility to consider the capacity of safe roadways, particularly in regard to the cumulative traffic. He stated it is not captured in this process. He stated it is important they not approve of something that harms the citizens. Karen asked what information Commissioner Rokosch would want. Commissioner Rokosch replied a traffic study for county and state roads that would include accident information and impacts or changes on loading. Commissioner Chilcott asked if they were to receive this information, how they would use it to mitigate the traffic concerns. Karen asked if this information is being requested by the developer or for subdivision regulations. Commissioner Driscoll stated it is a consideration for any revised subdivision regulations. Commissioner Rokosch replied both. Commissioner Chilcott stated this information is for revisions of our regulations and he agrees with Commissioner Driscoll. He also noted the 'Commissioners could argue this all day'. Commissioner Rokosch replied he does not want to argue it all day but it is pertinent information and it needs to be addressed. Kirby stated his client did meet county road standards and paid \$80,000 to resurface the road in order to provide adequate service to the subdivision. This will also provide another way out of the valley by providing for a connection to the Eight Mile Creek area. Commissioner Rokosch stated he does appreciate the interconnectivity; however the end result is that both access ways dump out on the Eastside Highway.

Commissioner Chilcott stated the Florence response time is acceptable and recommended accepting the Staff's findings of fact.

Commissioner Rokosch requested any other comments on local water or waste water. He questioned the mixing zones overlapping with the well diameter. Gordon replied mixing zones can overlap with the well according to DEQ regulation. Commissioner Rokosch stated there was a presentation by the DEQ that stated the mixing zone should be 100 feet in separation. Gordon stated it is for an existing well. It is a 100 foot hypothetical zone. He further stated the drain field cannot be within 100 feet. Gordon stated there are two aquifers in the valley and the shell filled basin does not extend into this area. This is a confined basin and he stated he submitted all of this to DEQ. There is no way the surface water can get that deep due to the clay layer as it is a confined aquifer. Commissioner Driscoll asked if it was 150 feet for the wells. Gordon replied it would vary and this deep filled aquifer is confined and the wells within this proposal would likely be 600 feet.

Commissioner Rokosch questioned the specification of the plus 25% slope. Tristan replied it is for lots 12 & 13 only and the language in the staff report was a typo.

Commissioner Rokosch stated in the application there were restrictive covenants but not in the Staff Report. Tristan replied there are none existing, just proposed.

Commissioner Rokosch requested any other discussion on criteria six, hearing none.

Tristan recapped the mitigation as follows: to amend Condition 8 offering \$550 per lot to the School District, amend Condition 9 offering \$500 per lot to Public Safety Services, amend Condition 14 to add a 4-foot wide impacted gravel trail, and amend Condition 15 offering \$1,500 for County Services (\$75 per lot).

Commissioner Chilcott made a motion to approve the Remington Ridge Major Subdivision based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report as amended here today.

Commissioner Thompson seconded the motion. Commissioner Rokosch stated from his perspective based on the offered school contribution and the absence of information regarding farm lands of local importance, he does not feel the impacts have been mitigated. **Commissioner Chilcott, Commissioner Thompson and Commissioner Driscoll voted 'aye'. Commissioner Rokosch voted 'nay'.**

► Commissioner Thompson attended RAC meeting in Hamilton in the evening.